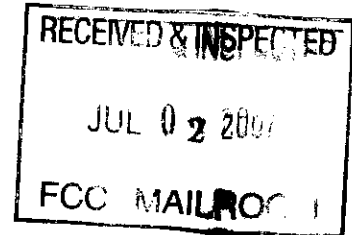


CONFIDENTIAL OR ORIGINAL

June 28, 2007

VIA USPS Express Mail

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554



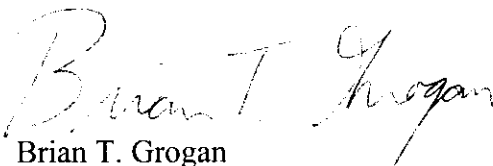
Re: PETITION OF THE CITY OF VIRGINIA BEACH, VIRGINIA, FOR WAIVER
OF THE COMMISSION'S JUNE 26, 2008, PROGRAM COMPLETION DATE FOR
REBANDING THE CITY'S 800 MHZ CHANNELS - EXPEDITED ACTION
REQUESTED - WT Docket No. 02-55

Dear Ms. Dortch:

Enclosed please find one (1) original and four (4) copies of the City of Virginia Beach,
Virginia's Petition for Waiver of the Commission's June 26, 2008, Program Completion
Date for Rebanding the City's 800 MHz Channels - EXPEDITED ACTION
REQUESTED

Thank you for your attention to this matter. If you have any questions or if I can provide
additional information, please contact me.

Very truly yours,

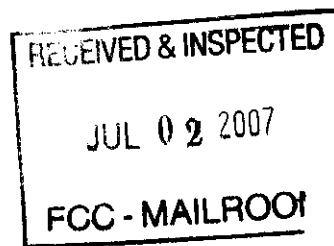


Brian T. Grogan
Attorney At Law
(612) 877-5340
GroganB@moss-barnett.com

BTG/btg
1006324v1
Enclosures

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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

)

)

Improving Public Safety Communications in
the 800 MHz Band

)

)

WT Docket No. 02-55

**PETITION OF THE CITY OF VIRGINIA BEACH, VIRGINIA, FOR WAIVER OF
THE COMMISSION'S JUNE 26, 2008, PROGRAM COMPLETION DATE FOR
REBANDING THE CITY'S 800 MHZ CHANNELS**

WAIVER – EXPEDITED ACTION REQUESTED

**Brian T. Grogan
Moss & Barnett
4800 Wells Fargo Center
90 South 7th Street
Minneapolis, MN 55402-4129**

Attorneys for the City of Virginia Beach, Virginia

June 27, 2007

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SUMMARY

The City of Virginia Beach, Virginia (“City”), hereby petitions for waiver of the June 26, 2008, deadline for completion of reconfiguration by licensees that must reband pursuant to 47 C.F.R. § 90.677 and the Commission’s Orders in this proceeding.¹ The City operates 800 MHz public safety and public service voice radio networks that are subject to the requirement to reband in this proceeding. The City asks that the Commission establish July 1, 2009, as the completion date for reconfiguration of the City’s 800 MHz channels.

The City of Virginia Beach is one of eight 800 MHz licensees in the Hampton Roads metropolitan area that are directly interoperable with each other. Over the past 10 years, these eight Hampton Roads Region (“HRR”) licensees have built out advanced interoperable public safety voice radio systems. For more than two years, the City has taken a leading role in working with the HRR licensees, the Transition Administrator, Sprint Nextel, Motorola, Inc., and Federal Engineering to identify a regional coordination process by which HRR licensees can accomplish the rebanding of 800 MHz public safety radio systems without sacrificing the high degree of interoperability that is so essential for this region. The HRR licensees, the Transition Administrator, and Sprint Nextel all agree that a coordinated, regional approach represents the only safe and cost-effective way to reband the HRR’s public safety radio systems. These parties all have worked together to formalize that approach in the licensees’ individual Frequency Reconfiguration Agreements (“FRA”) and in regional coordination contracts.

The City and Sprint Nextel have agreed upon Planning Funding Agreements (“PFA”) covering the City’s 800 MHz radio systems that not only recognize the need for regional coordination, they require it. The Transition Administrator has previously approved the City’s

¹ The City of Virginia Beach – Sprint Nextel mediation was assigned TAM-12335 and was mediated by John A. Burlingame, Esquire.

Phase 1 FRA while the Phase 2 FRA is soon to be submitted for review by the Transition Administrator. However, this approval can not occur absent the City's obtaining a waiver of the Program Completion date, because compliance with the obligation to coordinate with the other HRR jurisdictions will extend the City's reconfiguration activities well past June 26, 2008.

Moreover, as Sprint Nextel is not obligated to reimburse costs incurred by the City after June 26, 2008 and the Transition Administrator cannot ensure that all agreed upon costs incurred by the City after June 26, 2008 will be reimbursed by Sprint Nextel, the City's progress on retuning has ground to a halt. The City cannot execute an FRA and commit to rebanding expenditures in excess of one million dollars for which it may not be reimbursed. Accordingly, the City requests the Commission's expedited action to approve this Petition.

INTRODUCTION

Pursuant to 47 C.F.R §§ 1.3, 1.925 and 90.677(e) (2006), the City of Virginia Beach, Virginia ("City"), hereby petitions for waiver of the June 26, 2008, deadline for completion of reconfiguration by licensees that must reband pursuant to 47 C.F.R. § 90.677 and the Commission's Orders in this proceeding (hereinafter "the Completion Date").

The City is authorized by the Commission under Part 90 of the Commission's Rules to operate 800 MHz public safety and public service voice radio systems and subscriber radios (the "Public Safety System") under call signs WQEF832, WPXJ737, WZS605 and WNQJ860 which are scheduled to be reconfigured under an 800 MHz rebanding Wave 1, Phase 2 FRA. These systems include one twenty channel five site trunked simulcast system (incorporating new NPSPAC band trunking capability), one five channel single site conventional NPSPAC mutual aid system, one secure conventional channel two site repeater system and two single channel conventional systems. The City's systems are manufactured by Motorola, Inc. and EFJ, Inc.

Based on the best information that the City has at this time, the City asks that the Commission establish July 1, 2009 as the completion date for reconfiguration of the City's 800 MHz channels.²

Sections 1.3 and 1.925 of the Commission's Rules authorize the Commission to grant waivers of the Rules when "good cause therefor is shown,"³ and "[t]he underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or . . . [i]n view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative."⁴ The City's Petition satisfies each of these criteria.

The Commission's grant of a waiver is imperative, because it is the only way that the City can retune its 800 MHz public safety radios and maintain interoperability among the 800 MHz radio systems that police and firefighters rely upon to protect the health and safety of nearly two million residents in the Hampton Roads metropolitan area. The City of Virginia Beach is one of eight 800 MHz licensees in the Hampton Roads metropolitan area that are interoperable with each other.⁵ Over the past 10 years, these eight Hampton Roads Region ("HRR") licensees have built advanced interoperable public safety voice radio systems. That interoperability will be disrupted unless the rebanding of those systems is coordinated with due care and reasonable planning.

² As explained below, the City could potentially complete rebanding by June 2008 only by proceeding with reconfiguration independently of its regional partners..

³ 47 C.F.R. § 1.3.

⁴ 47 C.F.R. § 1.925

⁵ These jurisdictions include cities of Virginia Beach, Chesapeake, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, York County /James City Virginia.

Even as we are representing our concern for maintaining Interoperability with the region as cause for time extension, it will be equally difficult because of the long and unplanned length of the Phase 2 FRA negotiations for the City of Virginia Beach to reband its 800 MHz radio systems by June 2008 even if it were to proceed independent of its interoperability partners. However, doing so would utterly defeat the underlying purpose of the rules of this program, “Improving Public Safety Communications in the 800 MHz Band.” The Commission should note that the 800 MHz public safety licensees in the HRR have not experienced unacceptable levels of interference from Sprint Nextel CMRS sites. Therefore, extending the time over which the HRR will reconfigure its 800 MHz channels will not jeopardize public safety. To the contrary, it is adherence to the Completion Date that will jeopardize public safety. In other words, the Commission’s waiver of the deadline will not frustrate the underlying purpose of the rules – it will protect the purpose of the rules.

JUSTIFICATION FOR THE WAIVER REQUEST

Over the past 20 years, City of Virginia Beach and other local governments in the HRR have spent millions of dollars in federal, state, and local taxpayer funds and devoted tremendous levels of effort to plan, engineer, create, coordinate, and govern one of the more advanced interoperable public safety voice radio environments in the United States. As a result of this long-term, coordinated regional effort to achieve interoperability, the public safety radios used by jurisdictions in the HRR typically contain programming for all of that jurisdiction’s neighbors, as well as many other jurisdictions in the region. In the HRR, interoperability has been placed into the hands of the police, firefighters and other end users, where it can be used quickly and efficiently and without the delays caused by cumbersome patches or dispatcher intervention. This voice radio interoperability capability plays a critical role in the City’s day-to-

day responsibilities to protect the public and it is an essential element in the City's response to major incidents, disasters, hurricanes and other large-scale emergency response situations. The fact that the City and surrounding region are home to multiple military bases, susceptible to hurricanes and floods and host to millions of visitors during the summer vacation season⁶ provides ample justification for the waiver request. ⁷The only way to maintain interoperability throughout the region is to reband all of the participating regional partners in a step-by-step, coordinated fashion.

A. Regional Coordination is Critical

The City has approximately 5500 voice radio subscriber units operating on its Public Safety System. Additionally, throughout the HRR there are approximately 16,000 voice radios owned by other licensees, agencies, and jurisdictions, including local, state, and federal public safety agencies that are programmed to include specific channels on the City's Public Safety System. Each of these non-City radios must be programmed with system specific information for the City's Public Safety System in order to be interoperable. Before the City can begin rebanding the infrastructure affected by rebanding in its Public Safety System, each one of these thousands of radios must be equipped with the new rebanding firmware from Motorola, and/or then be reprogrammed with both the pre-rebanding and post rebanding system parameters in order to ensure continued and uninterrupted operation on City of Virginia Beach's Public Safety System.

Avoiding disruption of interoperability for non-City licensees in the HRR is vitally important to the City because those radios are utilized by the very jurisdictions that come into

⁶ The City of Virginia Beach's population of 432,000 residents swells during the three (3) summer months by three (3) million visitors bringing the population in just the City to an average of 1.4 million per month.

⁷ See Exhibit A. Exhibit A contains three (3) "CONFIDENTIAL" documents which: 1) specify that the City of Virginia Beach has been identified as a "High-Risk Metropolitan Area;" 2) identify the City's Hurricane and flooding risks; and 3) describe the City's position as a potential target of terrorism and natural hazards risks given the unique characteristics of the City and region.

City of Virginia Beach to render mutual aid assistance. Similarly, this communications capability permits the City to bring its own extensive public safety resources to the assistance of other HRR jurisdictions. For adjacent localities, this occurs on a routine, day-to-day basis. At a regional level, this occurs when a major incident overwhelms the City's own public safety resources and necessitates the involvement of other regional public safety resources. Such mutual-aid communication is common between the public safety personnel of the HRR jurisdictions.

This support is made possible because each radio contains a computerized configuration file known in the industry as a "template" or "codeplug" that identifies the correct parameters for communicating with other trunked and conventional 800 MHz radio systems in the region. These templates are designed or "engineered" for each model or series of radios in order to allow interoperable communications with other 800 MHz trunked and conventional radio systems in and around the HRR. Before template engineering can be performed for any single HRR entity, the system parameters for each of the surrounding jurisdictions must be identified and consolidated into a document that correctly integrates those parameters into a regional template development checklist. For example, a typical City of Virginia Beach Public Safety System radio contains programming for 4 or more other trunked radio systems in and around the HRR. Before a new template for a City radio can be created and finalized, the City must identify and verify all of these individual jurisdiction's rebanded system parameters to incorporate into a new template for its radios.

In other words, the City cannot complete the engineering work required to develop new templates for each of the City's different "families" of trunked subscriber radios until all of the City's interoperability partners have identified the rebanding changes that will be made in their

own systems. The system operators for each trunked radio system must provide each other a detailed statement of the rebanding changes that are being made on their respective trunked radio systems in order for the template to work properly on that operator's system before, during, and after the infrastructure rebanding.

A high degree of schedule management, coordination, and oversight will be required in order to execute the complex task of rebanding in the HRR without inadvertently sacrificing voice radio interoperability. The Transition Administrator understands and acknowledges the requirement of this process in the HRR. Furthermore, it is essential to recognize that before the trunked radio system infrastructure of the HRR jurisdictions can be rebanded to new frequencies, every subscriber radio that is linked to that system must first be reprogrammed with new regional parameters.

B. Additional Time is Necessary to Coordinate Regional Rebanding

Beginning in March 2005, immediately upon the Commission's approval of the Regional Prioritization Plan ("RPP"), the City began planning the rebanding of its 800 MHz voice radio networks.⁸ The City soon realized that the RPP posed a significant risk to maintaining the interoperable voice radio communications that the City and other HRR jurisdictions had worked so hard to achieve. Therefore, in June 2005, the City initiated a series of meetings with other HRR licensees, and included Sprint/Nextel, to discuss the challenges that the region faced as a result of the RPP, especially the challenge of rebanding without sacrificing interoperability.

The regional coordination meetings and conference calls that the City initiated in over the past two years continue to this day. The meetings have produced a plan for regional rebanding

⁸The City has detailed many of these planning activities in Exhibit B (Reply of the City of Virginia Beach, Virginia to the Supplemental Proposed Resolution Memorandum of Nextel Communications, Inc.)

coordination that, if it is allowed to proceed, will allow the 800 MHz licensees in the HRR to reband their systems without sacrificing voice radio interoperability.

However, the Commission's Order and the resulting rebanding processes established by the Transition Administrator did not initially provide a clear mechanism to take into account the complex interoperability environments that exist in certain areas of the United States, including the HRR. The City and the other HRR licensees faced significant challenges in attempting to structure a way to make the process work for the HRR as a whole. Likewise, the PFA and FRA processes did not appear to contemplate such regional coordination. As a result, Sprint Nextel objected to the City's inclusion of costs in its PFA and FRA for regional coordination, because those costs were not specifically to plan the City of Virginia Beach's individual systems reconfiguration.

In addition, the rebanding process does not provide any guidance or assistance on how to structure leadership for a regional effort.⁹ The many localities of the HRR spent considerable time working to identify an entity to act as a regional coordinator that could contract and make decisions on behalf of the entire HRR. No single HRR jurisdiction has legal authority to direct the actions of any other HRR jurisdiction-licensee. However, the funding was provided to Virginia Beach at the request of Sprint Nextel and was agreed to by the HRR and Sprint Nextel in a face to face meeting on September 23, 2005. The funding was requested to avoid confusion and complexity in developing regional coordination plans. Instead of every jurisdiction being responsible for putting regional coordination in their respective PFA's, the City, using Federal Engineering, agreed to contractually facilitate the regional coordination planning effort. Norfolk,

⁹More recently, the Transition Administrator has published a Fact Sheet on Mutual Aid and Interoperability, which says that the Transition Administrator recommends that each interoperability group should designate one "Lead Agency," but it does not provide any information to assist licensees in doing so. The Fact Sheet is available at [http://www.800ta.org/content/PDF/reconfiguration materials/Updated Interoperability Fact Sheet.pdf](http://www.800ta.org/content/PDF/reconfiguration%20materials/Updated%20Interoperability%20Fact%20Sheet.pdf).

Portsmouth, Suffolk, Chesapeake, Virginia Beach, Hampton, Newport News and York voted and agreed to this concept. Each jurisdiction executed letters of agreement authorizing the City to operate as the agent for the region in order to provide payment to Federal Engineering for the services required by the HRR for overall coordination of the rebanding effort.¹⁰ The City is not acting as the “Program Manager,” but is merely a facilitator using its existing contract relationship with Federal Engineering to facilitate the regional coordination planning effort on behalf of the HRR.

This explains why the City is proceeding with this individual waiver request. The City’s FRA details the tasks required to safely and effectively reband the City’s systems in conjunction with the 800 MHz public safety radio systems in and around the HRR. The most current projected regional schedule indicates that regional efforts necessary for the City to being infrastructure reconfiguration are unlikely to be completed prior to September 2008. Final reconfiguration of infrastructure and subscribers for the City is not expected to be complete until at least May 2009 assuming no further significant delays in the reconfiguration are encountered.

Should the Transition Administrator encourage other HRR licensees to obtain waivers of the Completion Date then the Commission can anticipate receiving eight more petitions for waiver of the Completion Date on the same grounds as set forth in this petition. Unless the Commission waives the Completion Date for all HRR licensees, a waiver of the Completion Date for the City or other individual licensees alone accomplishes nothing. The very purpose of this petition is to allow the City and its interoperability partners to coordinate rebanding within the region. Unfortunately, the City cannot properly petition for a waiver of the Completion Date on behalf of the HRR now, but the City notes that the Commission can grant such a waiver on its own motion. 47 C.F.R. § 1.925(a). The City believes that it would be prudent for the

¹⁰ See Exhibit C which includes executed letters form each jurisdiction regarding the regional coordination effort.

Commission to establish December 31, 2009 as the Completion Date for all of the HRR licensees in order to prevent the need for multiple waiver requests.

C. Expedited Action on the City's Petition is Requested Because the Inability of the City to obtain reimbursement of All Costs After the Completion Date Has Halted All Rebanding Progress

As of this date the City, TA mediator and Sprint Nextel have agreed to all other terms of an FRA but the current mandatory Completion Date would serve to negate that agreement by requiring that the City, not Sprint Nextel, shoulder the burden of all costs incurred after the Completion Date. In other words, even though there is agreement among the City, Sprint Nextel, and the TA mediator that regional coordination is critical, inclusion of the current mandatory Completion Date in the FRA shifts all financial risk solely upon the City should the Commission not grant the waiver or otherwise extend the Completion Date. Because the City does not control whether the Commission grants this Petition or extends the Completion Date, the City cannot accept that risk by executing the FRA. In fact, the City cannot control the regional retuning schedule that is the basis of the City's Petition, because the regional schedule depends upon the schedules of eight other licensees, as well as the City.

Consequently, pending Commission action on this Petition, the City cannot execute the FRA to which the City and Sprint Nextel have agreed. The City cannot commit itself to assume the costs of rebanding work that may not be reimbursed.¹¹ Nor can the City finalize the contracts it is negotiating with Motorola and Federal Engineering to perform the reconfiguration work on the City's radio systems, because Sprint Nextel may be barred from paying Motorola and Federal

¹¹ The Commission has repeatedly stated that incumbents should not incur any costs to reconfigure their frequencies. See, e.g., Supplemental Order and Order on Reconsideration, FCC 04-294, ¶15, 19 FCC Red. 15,129 (adopted Dec. 22, 2004), saying that "incumbents should incur no costs for band reconfiguration, and that the sole responsibility for paying all band reconfiguration costs – including the cost of preparing the estimate, negotiating the retuning agreement, and resolving any disputes – lies with Nextel."

Engineering for a large portion of these costs. Until the Commission acts on this Petition or extends the Completion Date, the City has no reasonable choice but to halt its progress toward reconfiguring its own systems.

The implications of the City of Virginia Beach being unable to recoup costs incurred past the Completion Date will reverberate throughout the HRR. The individual FRAs under negotiation by most of the HRR licensees are expected to include the same “retuning cooperation” provisions as the City’s current FRA while those licensees will also have to retune their systems according to a regional schedule that will extend well past the Completion Date. The City has no reason to believe that the Transition Administrator will approve those contracts unless the Commission grants a waiver from the Completion Date. As a result, the City may also have to suspend further work on regional coordination negotiations and activities. Meanwhile, the City already has expended significant staff time and out-of-pocket costs on regional coordination that it may never recover. In light of the current uncertainty about how and when regional coordination will proceed, and with the costs of rebanding its own radio systems at risk, the City cannot continue to devote such significant resources to this effort.

CONCLUSION

The City has shown good cause for its waiver request. Rebanding of 800 MHz public safety radio systems in and around the HRR must proceed in an orderly and coordinated fashion if the critical interoperable communications capabilities currently in use throughout the region are to be preserved.

A grant of the requested waiver will be in the public interest. The region’s public safety professionals protect approximately two million citizens who live or work in the HRR, and they

protect literally hundreds of important military and private facilities. Those public safety professionals rely on their interoperable public safety voice radio systems to accomplish their day-to-day missions and to manage the public safety response to any large-scale disaster, hurricane, or other major incident that may occur. By granting a regional waiver on its own motion, the Commission will ensure that rebanding of the HRR 800 MHz trunked public safety radio systems can proceed in accordance with a regional rebanding schedule designed to ensure that critical interoperable communications capabilities are not impaired or sacrificed during and after the physical rebanding process.

In this case, application of the rule(s) would be inequitable, unduly burdensome, or contrary to the public interest, and the City has no reasonable alternative. Requiring rebanding of the City's 800 MHz public safety radio system to proceed absent a carefully coordinated regional project plan and schedule is unreasonable, unrealistic, and entirely contrary to the public interest.

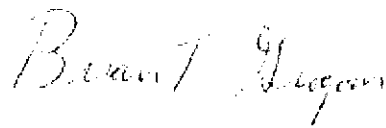
Section 90.677(e) of the Commission's Rules states "[i]ncumbents who wish not to relocate according to the schedule may petition the Commission for a waiver of the relocation obligation. Such a waiver would only be granted on a strict non-interference basis."¹² As with other 1-120 licensees in the HRR and elsewhere who seek to delay the relocation of 1-120 channels in order to maintain interoperability or for other reasons, certain NPSPAC licensees are impacted if they have facilities within 70 miles of the 1-120 incumbents. In the case of this Petition, the City notes that the Transition Administrator, in its April 9, 2007, letter to Sprint Nextel, has assigned full responsibility for coordination and interference mitigation with these NPSPAC licensees to Sprint Nextel.

¹² 47 C.F.R. § 90.677(e).

For the reasons set forth above, the City of Virginia Beach, Virginia, requests that the Commission grant a waiver of the City's obligation to complete reconfiguration of the City's 800MHz public safety and public service voice radio networks under call signs WQEF832, WPXJ737, WZS605 and WNQJ860 which are scheduled to be reconfigured under an 800 MHz rebanding Wave 1, Phase 2 FRA on or before the current Program Completion Date of June 26, 2008. The City requests that the Commission establish a revised Completion Date of July 1, 2009 for these call signs. Additionally, the City urges the Commission to exercise its authority to act on its own motion and establish December 31, 2009, as the Completion Date for all eight licensees in the Hampton Roads Region in order to prevent the need for multiple waiver requests.

Respectfully submitted,

CITY OF VIRGINIA BEACH, VIRGINIA

A handwritten signature in cursive script, reading "Brian T. Grogan".

Brian T. Grogan
Dated: June 27, 2007

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of June, 2007, a true copy of the foregoing was served electronically upon:

David Furth, Associate Bureau Chief, Public Safety and
Homeland Security Bureau, Federal Communication Commission, at
David.Furth@fcc.gov

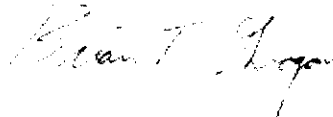
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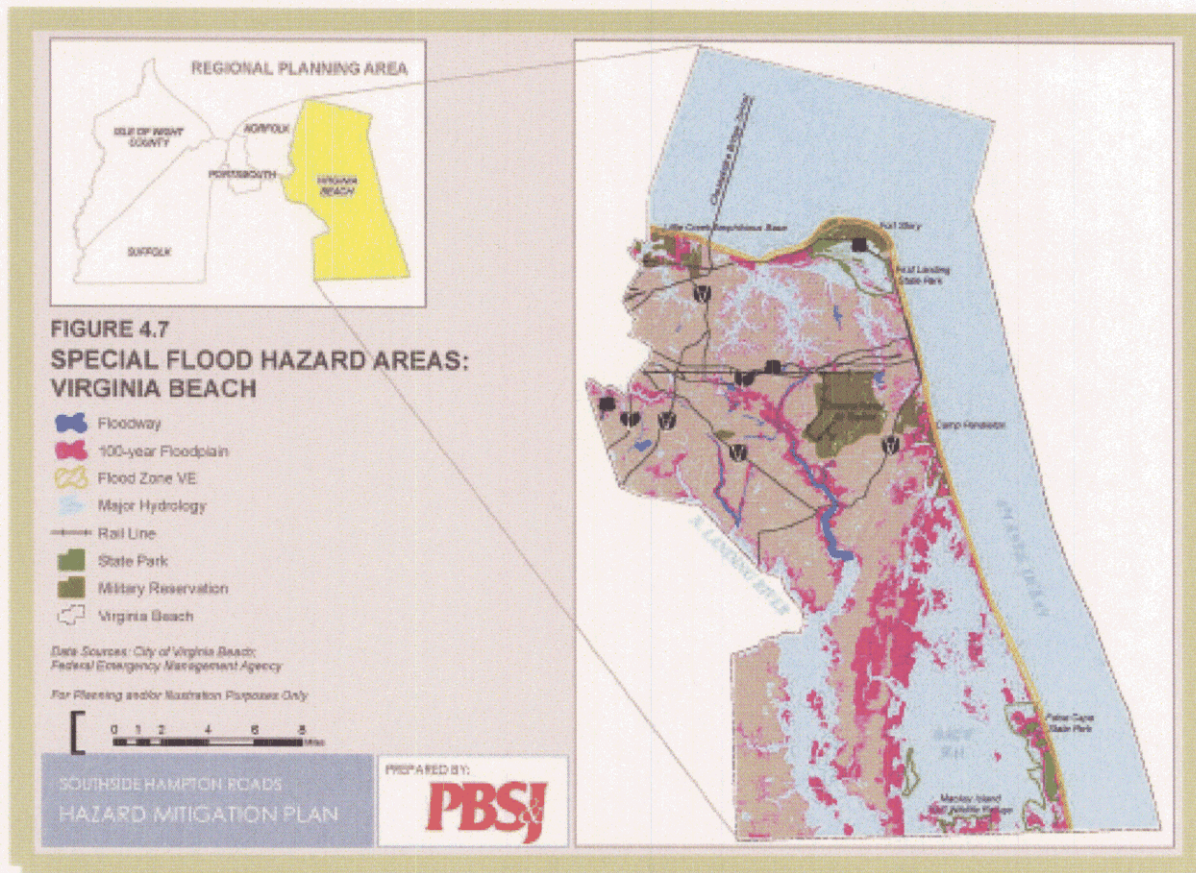
Doug Onhaizer
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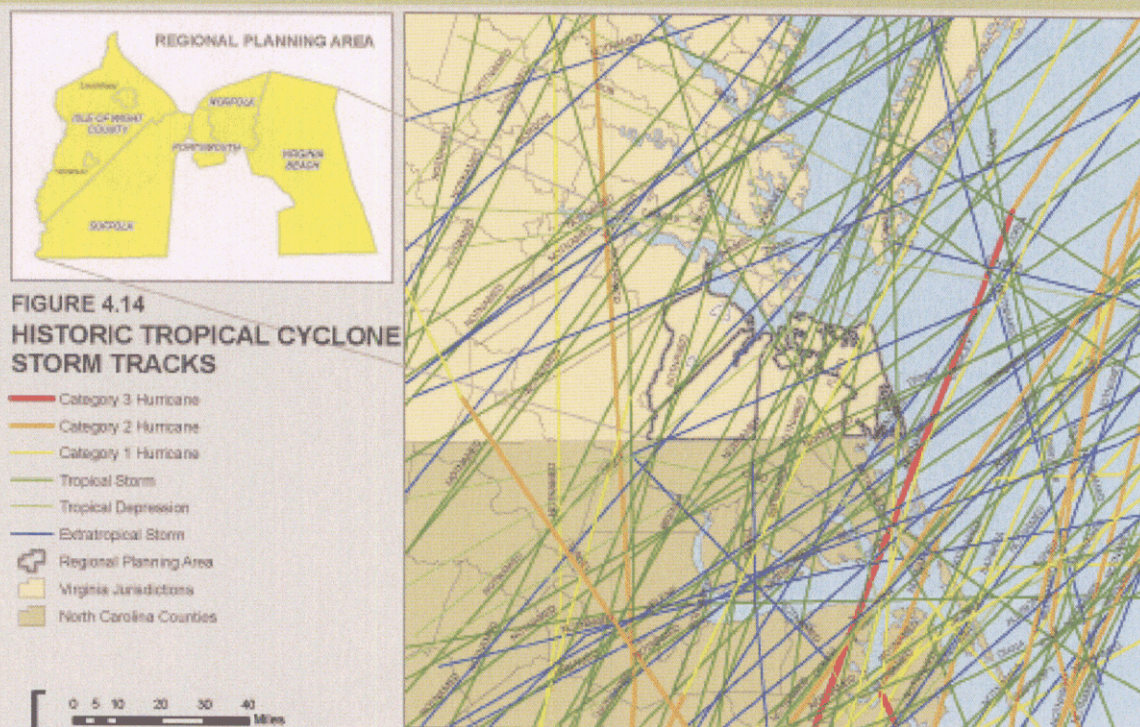
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EXHIBIT A





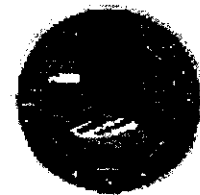
SOUTHSIDE HAMPTON ROADS
HAZARD MITIGATION PLAN

PREPARED BY:



Data Sources: National Hurricane Center
For Planning and/or Illustration Purposes Only

**Department of Justice
High-Risk Metropolitan Area
Interoperability Assistance Project**
*Improving emergency communications interoperability
in 25 metropolitan areas nationwide*



Nationwide Problem

In recent years, a growing number of acts of domestic terrorism, civil disturbances, and natural disasters have demonstrated the need for local, state, and federal public safety agencies to better coordinate their efforts at the scene of an incident. Many federal public safety entities must now be able to communicate directly with one another and with their state and local counterparts that are also critical frontline defenders of homeland security.

Action

The Department of Justice (DOJ) has developed a plan that will provide federal law enforcement/homeland security agencies with basic systems/communications, as well as interoperability/interconnectivity with key state and local authorities for emergency situations. The plan will address communications for the top metropolitan areas that are likely targets for attack. This action plan is being implemented in coordination with the interoperability efforts of the Department of Homeland Security (DHS), SAFECOM, and the Office of Domestic Preparedness.

Approach

In response, DOJ created a five-phased plan. The phases, and their current completion status, include—

- **Phase 1** – Identify cities considered to be most likely targets (Complete)
- **Phase 2** – Gather data on each cities' communications initiatives, capabilities, and infrastructure (Complete)
- **Phase 3** – Select and recommend solutions to participating agencies
- **Phase 4** – Develop technical and operational solution plans
- **Phase 5** – Implement technical and operational solutions

Participants

Metropolitan areas have been selected for assistance based on the following 10 criteria—

- Identified as priority area in joint DOJ/DHS data call
- DHS perceived threat to the metropolitan area
- Number of terrorism threats received
- Population of more than 1 million
- Presence of major airport hub(s)
- Presence of military installation(s)
- Tourism destination
- Significant telecommunications hub(s)
- Presence of a top 50 port (based on tonnage)
- Presence of energy industry (e.g., nuclear facility)

The 25 cities chosen for this initiative are

- | | | |
|-----------------|--------------------|---------------------|
| • Atlanta, GA | • Houston, TX | • Portland, OR |
| • Baltimore, MD | • Jacksonville, FL | • San Diego, CA |
| • Boston, MA | • Los Angeles, CA | • San Francisco, CA |
| • Charlotte, NC | • Miami, FL | • Seattle, WA |
| • Chicago, IL | • New Orleans, LA | • St. Louis, MO |
| • Dallas, TX | • New York, NY | • Tampa, FL |
| • Denver, CO | • Norfolk, VA | • Washington, DC |
| • Detroit, MI | • Philadelphia, PA | |
| • Honolulu, HI | • Phoenix, AZ | |

Solution

Using data gathered on each metropolitan region's initiatives, capabilities, and infrastructure (Phase 2), DOJ is determining the most feasible option to ensure basic interoperability is achieved. Potential options have been subdivided into three general categories—fixed, mobile, and operational solutions. The solution chosen for a specific metro area will be comprised of one or more of these general categories.

- **Fixed solutions** refer to permanent interconnects of disparate systems. An example is the bundling of mutual-aid channels to support local, state, and federal public safety agencies or implementation of a console-to-console patch.
- **Mobile solutions** refer to temporary network links for a limited geographic area. An example is a vehicle-mounted radio matrix switch which would be deployed to an incident scene requiring multi-agency response.
- **Operational solutions** address management issues of interoperability equipment. An example is writing Standard Operating Procedures (SOP) to support interoperable radio communications during an emergency.

Contact Information

If you would like to know more about this initiative or have questions, please contact the following—

Tom Risher, Director, DOJ Wireless Management Office
Phone: 703.122.1661
Email: tom.risher@doj.gov

Rob Zaager, Attorney/Advisor, DOJ Wireless Management Office
Phone: 703.122.1671
Email: rob.zaager@doj.gov

Describe your understanding of the spectrum of terrorism and natural hazards risks your State/Territory/Urban Area faces. Explain how this understanding influenced development of this Investment Justification. (3,500 Char. max)

The Hampton Roads region is composed of 16 localities, all with unique characteristics as well as threats. The region has experienced natural, technological, and terrorist disasters. To date, all of the localities have worked vigilantly to protect and reduce our risks. However, we are still at risk and must continue the efforts to make sure we are providing our citizens with the best possible prevention methods, response capabilities, and recovery plans.

Due to its location Hampton Roads is most often vulnerable to hurricanes, tropical storms, flooding and ice storms. Since 1851, 106 hurricanes and tropical storms have passed within 75 miles of the region, 29 of which crossed directly through the region. This translates into an estimate of a 68% chance that a storm may potentially impact the region on an annual basis. Nor'easters are also a common occurrence. These storms are usually associated with riverine and coastal flooding resulting from rainfall, tidal and storm surges. The most destructive recent storms have been Hurricanes Isabel (2003), Floyd (1999) and Bonnie (1998). While not impacting just one area, ice storms frequent Hampton Roads and can be quite costly. A series of ice storms struck the region in 1993-1994 and again in 1998 and 2000.

Hampton Roads has a high potential for terrorist and WMD events. This statement is based on risk assessments conducted by local police, Virginia State Police and the FBI indicating our risk, potential targets and their potential value for a terrorist.

Hampton Roads is home to the world's largest military industrial complex, which encompasses 12 military installations and multiple supporting defense contractors. Combined with these risks are a large permanent population, a large tourism industry and a population increase in areas of mass gathering. Events of mass gathering occur on a frequent basis with tens of thousands of people in relatively small areas. Examples include the American Music Festival, Harborfest, East Coast Surfing Championships, Cuervo Gold International Beach Volleyball challenge, Invitational Soccer Championships, multiple marathons, and other events year round.

In November of 2001 the Joint Terrorism Task Force conducted a risk assessment of Hampton Roads. The following targets have been identified from that report: Agriculture, sports facilities, tunnels that connect the peninsula to the Southside, bridges, major water and wastewater facilities (44), multiple military facilities, places of worship, major port and port facilities, major defense contractors, schools and universities, inner-coastal waterway, nuclear and other power plants (4), fuel storage facilities, and historic sites (6000+). Examples of some of the region's threatened or actual WMD events have been:

- Virginia Beach departments and HAZMAT teams responded to over 1,000 suspicious powder calls in last quarter of 2001 alone - This included numerous alerts to Norfolk, Chesapeake, Portsmouth and Newport News, as Virginia Beach was the only team with biological testing equipment.

- Explosive device incidents, numbering 230, as the primary command agency responsible for incidents and supporting Police EOD activities.
- Pipe bombs attached to two above ground fuel storage tanks at tank farm.

Our region plans and responds to an array of hazards. The investment justifications reflect our efforts to reduce our vulnerability to those hazards. Our region is addressing the HOW and the WHY in our investments in order to create and maintain solid response practices for our region. The HOW is the equipment purchases, training, and exercising. The WHY is the planning, identification, and assessment in our region. The 9/11 Commission stated that we should view terrorism as "over here" and on our soil, these investments reflect our roles in responding to that charge. Because Hampton Roads is a high-threat, high-density Urban Area, our risk and vulnerability is high. These investments will assist us in building and sustaining capabilities to prevent, protect against, respond to, and recover from threats or acts of terrorism.

EXHIBIT B

**Before the
800 MHz Transition Administrator, LLC
Alternative Dispute Resolution**

In the Matter of)		
)		
City of Virginia Beach, Virginia)		
)		
and)	Mediation No.	TAM-12335
)	TA Mediator	John A. Burlingame
Nextel Communications, Inc.)		

**REPLY OF THE CITY OF VIRGINIA BEACH, VIRGINIA
TO THE SUPPLEMENTAL PROPOSED RESOLUTION MEMORANDUM
OF NEXTEL COMMUNICATIONS, INC.**

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March 2, 2007

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I. INTRODUCTION

The City of Virginia Beach, Virginia ("City"), by its attorneys and at the direction of the TA Mediator ("Mediator") as set forth in the Mediator's Scheduling Order of February 19, 2006, hereby submits its reply to the February 27, 2007 supplemental Proposed Resolution Memorandum (PRM) of Nextel Communications, Inc. ("Nextel").

II. ARGUMENT

There remain only four unresolved issues in this proceeding that the City is aware of. The four remaining issues raised by Nextel are as follows: 1) the timeline for Licensee's reconfiguration; 2) additional FRA language issues; 3) the City's legal fees; and 4) the City's estimated costs. Nextel received the first rebanding proposal from the City of Virginia Beach in November 2006, yet most of these issues were raised months later and after clear indication was given that Nextel had no remaining issues. Had these issues been brought to the City's attention